

Combatting Environmental Crime: a priority ?

Prof. Dr. L. Lavrysen
Justice Belgian Constitutional Court
President EUFJE

Priority on the International Level

- **UN ENVIRONMENT (UNEP)** – *The State of Knowledge of Crimes that have Serious Impacts on the Environment, Nairobi, 2018*

<https://www.unenvironment.org/resources/publication/state-knowledge-crimes-have-serious-impacts-environment>

- 4th largest criminal area
- Yearly increase (by 5 - 7 %)
- Lucrative
- Low risks

- Driven by economic benefits, substantial demand, institutional and regulatory failures resulting in impunity
- Very negative impacts
 - Undermining sustainable development
 - Acceleration of climate change (deforestation)
 - Undermining rule of law, good governance, fuelling geopolitical conflicts
 - Depriving governments of vast revenues
 - Undermine sound economic competition

- Serious (transnational) Environmental Crime
 - Illegal logging and timber smuggling
 - Species smuggling
 - Illegal, unreported and unregulated fishing
 - Black market on ozone depleting substances
 - Illegal movement of toxic and hazardous waste and other prohibited chemicals
 - Illegal mining
 - Corruption, money laundering, tax fraud
 - Organised crime
- Gaps in tackling environmental crimes
 - Lack of knowledge and data
 - Lack of legal frameworks
 - Lack of capacity in the enforcement chain

- Lack of co-operation (nationally and internationally)

■ INTERPOL

- Wildlife crime
- Trade and disposal of waste and hazardous substances
- Emerging: illegal carbon trade and water management crime
- Activities:
 - Leading global and regional [operations](#) to dismantle the criminal networks behind environmental crime using [intelligence-driven investigations](#);
 - Coordinating and developing international law enforcement best practice manuals, guides and other [resources](#);
 - Providing environmental law enforcement agencies with access to INTERPOL tools and services by enhancing their links with INTERPOL National Central Bureaus;
 - Working with the [Environmental Compliance and Enforcement Committee](#) to shape strategy and direction.

■ WORLD CUSTOMS ORGANISATION

- Environment Programme
 - <http://www.wcoomd.org/en/topics/enforcement-and-compliance/activities-and-programmes/environment-programme.aspx>

■ INECE – INTERNATIONAL NETWORK FOR ENVIRONMENTAL ENFORCEMENT AND COMPLIANCE

- <https://www.inece.org/topics/category/10>

Also on the European level

■ EUROPEAN UNION

- Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law
 - MS shall ensure that ***the conduct mentioned in art. 3 constitutes a criminal offence***, when unlawful and committed intentionally or with at least serious negligence
 - They shall ensure that ***inciting, aiding and abetting*** the intentional conduct referred to in Article 3 is punishable as a criminal offence

Also on the European level

- They shall take the necessary measures to ensure that the offences referred to in Articles 3 and 4 are punishable by ***effective, proportionate and dissuasive criminal penalties***
- They shall ensure that ***legal persons can be held liable for offences*** referred to in Articles 3 and 4 where such offences have been committed for their benefit by any person who has a leading position within the legal person, acting either individually or as part of an organ of the legal person

■ Bulgaria

- Transposition deadline: 26/12/2010
- Закон за изменение и допълнение на Наказателния кодекс - Official publication: Държавен вестник ; Number: 33 ; Publication date: 2011-04-26
- Закон за административните нарушения и наказания - Official publication: Държавен вестник ; Number: 81 ; Publication date: 2015-10-20

■ Council of the European Union, Council Conclusions on Countering Environmental Crime, 12 December 2016, 15412/16

- “environmental crime has become one of the world's most profitable organised criminal activities and has a significant impact not only on the environment, but on society and the economy in general, and that it has been identified as an emerging threat in the Serious and Organised Crime Threat Assessment (SOCTA) 2014 -2017”
- INVITES MEMBER STATES TO:
 - provide law enforcement and other relevant authorities with *sufficient capacity* to detect and investigate offences against the environment in a timely manner and bring their perpetrators to justice, and consider the potential added value of *establishing specialised police units* as well as extending the expertise of forensic and other scientific units to cover the investigation and examination of environmental offences

The specialization of prosecutors at both national and regional level as well as of judges, in accordance with national law and practice, could also be considered

- coordinate activities related to fighting environmental crime at national level, including among law enforcement, customs, environmental and administrative authorities, by involving all relevant multidisciplinary actors, clearly defining their roles and ensuring a secure system for actively sharing information between these actors;
- (...)
- where appropriate, systematically address the organised crime angle of environmental offences, in particular in the areas of wildlife and waste trafficking as well as illegal chemicals and pesticides;
- (...)
- consider introducing an obligation for an offender convicted of an environmental crime to cover the costs of the environmental agency which uncovered the facts that led to the prosecution;

■ European Commission

- Action Plan on environmental compliance assurance and governance (18 January 2018)
 - 9 Actions
 - help inspectors and law officers to combine forces, including through joint inspections and enforcement actions
 - provide guidance on combating environmental crime

- Life + Support for some projects:

- EFFACE - European Union Action to Fight Environmental Crime <https://efface.eu/>
- CWIT - Countering WEEE Illegal Trade <http://www.cwitproject.eu/>
- ENEC - European Network against Environmental Crime (Wildlife Crime) - <http://lawyersfornature.org/>

- **IMPEL**

- **ENPE**

- **EUROPOL**

- Environmental Crime is one of the EMPACT priorities 2018-2021 – Aim: “To disrupt OCGs involved in environmental crime, more particularly wildlife and illicit waste trafficking”

<https://www.europol.europa.eu/crime-areas-and-trends/eu-policy-cycle-empact>

- **ENVICRIMENET** <http://www.envicrimenet.eu/>

- informal network connecting police officers and other crime fighters in the field of environmental crime

The Enforcement Chain is a strong as the weakest link !

